

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 22-10964-mg

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5 In the Matter of:

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7 CELSIUS NETWORK LLC,

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9 Debtor.

10 - - - - - x

11

12 United States Bankruptcy Court

13 One Bowling Green

14 New York, NY 10004

15

16 May 14, 2024

17 3:02 p.m.

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21 B E F O R E :

22 HON MARTIN GLENN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: JONATHAN

1 HEARING re Hybrid Conference RE: Stretto Notice of Data  
2 Security Incident. (Doc # 4834, 4858, 4880)

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Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

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3 UNITED STATES DEPARTMENT OF JUSTICE

4 Attorneys for the U.S. Trustee

5 Alexander Hamilton Custom House

6 One Bowling Green, Room 534

7 New York, NY 10004

8

9 BY: MARK BRUH

10

11 KIRKLAND ELLIS LLP

12 Attorneys for the Debtor

13 333 W Wolf Point Plaza

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15

16 BY: ROSS KWASTENIET

17

18 ALSO PRESENT:

19 JOSEPH MCNEILIS

20 DAVID J. ADLER

21 CHRIS BECIN

22 JEFFREY BERNSTEIN

23 JOHAN BRONGE

24 VITOR CUNHA

25 RICKIE CHANG

1 CHRISTINA CIANCARELLI  
2 JON COLLARD  
3 AARON COLODNY  
4 SHARA CLAIRE CORNELL  
5 CAMERON R. CREWS  
6 DAVID DALHART  
7 TRISTAN LUIS DIAZ  
8 JAMES H. F. DIXON  
9 SHARON DOW  
10 JANELL ECKHARDT  
11 REBECCA GALLAGHER  
12 JASLEIGH GEARY  
13 DARIUS GHEORGHE  
14 SAMUEL P. HERSHEY  
15 JOHN HITTI  
16 DAVID KAHN  
17 DAN KAPLAN  
18 BRIAN P. KARPUK  
19 CHRIS KOENIG  
20 RIKI KOULY  
21 JOSEPH LEHRFELD  
22 MARK S. LEONARD  
23 NICOLE A. LEONARD  
24 SERBAN LUPU  
25 CHASE MARSH

1 BRIAN S. MASUMOTO  
2 JOHN MELLEIN  
3 MICHAEL D. MORRIS  
4 GREGORY F. PESCE  
5 RICHARD PHILLIPS  
6 JONATHAN RODRIGUEZ  
7 SAURABH ROHATGI  
8 DAVID SCHNEIDER  
9 WILLIAM D. SCHROEDER  
10 SAHRISH SOLEJA  
11 COURTNEY BURKS STEADMAN  
12 ELIZABETH B. VANDESTEEG  
13 EZRA VAZQUEZ-D'AMICO  
14 KEITH WOFFORD  
15 GOLSHID ZAHIREMAMI  
16 TANZILA ZOMO  
17 RAKESH PATEL  
18 HEIN VAN DER WIELEN  
19 GABRIEL BRUNSWICK  
20 DREW DUFFY  
21 CLARA ELLEN GEOGHEGAN  
22 UDAY GORREPATI  
23 TAYLOR HARRISON  
24 DIETRICH KNAUTH  
25 MIKE LEGGE

1 JONATHAN RANGLES  
2 PETER J. SPROFERA  
3 VINCE SULLIVAN  
4 SHIRA WEINER  
5 ALEX WITTENBERG  
6 ZACHARY ZABIB

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1 P R O C E E D I N G S

2 CLERK: All rise.

3 AUTOMATED VOICE: Recording in progress.

4 THE COURT: Please be seated. All right, we're  
5 here in Celsius, 22-10964. This is the hybrid hearing  
6 regarding Stretto's notice of data security incident. We  
7 have ... this was on the agenda, first item on the agenda on  
8 May 7th. And I ordered that we also have the hearing today.  
9 Please go ahead.

10 MR. McNELIS: Joseph McNelis for Stretto.

11 THE COURT: Okay.

12 MR. McNELIS: Stretto cares about and prioritizes  
13 the security of information that it maintains for the  
14 bankruptcy courts, and for that reason has measures put in  
15 place to tend to prevent incidents like this. And if they  
16 do happen, to mitigate the harm and the impact to creditors,  
17 if incidents like this do happen. In terms of attempting to  
18 prevent incidents like this, all accounts that have access  
19 to any Stretto system require a password and multifactor  
20 authentication. And the, all of the employees including the  
21 employee who was impacted here, go through training on how  
22 to recognize and avoid this precise kind of attack.

23 THE COURT: Let me ask first -- I directed that  
24 there be someone from, that an officer of Stretto be present  
25 today. Is there?

1 MR. McNELIS: Yes, Your Honor.

2 THE COURT: Who is that?

3 MR. McNELIS: Chris Updike, the general counsel.

4 THE COURT: Come on up here, in front of the bar,  
5 Mr. Updike. What is Mr. Updike's position? His position  
6 is?

7 MR. McNELIS: General counsel.

8 THE COURT: Okay. Good afternoon, Mr. Updike. Go  
9 ahead Mr. McNelis.

10 MR. McNELIS: Sure. So, unfortunately, this, this  
11 employee did fall what's called a smishing attack.

12 THE COURT: Stuff happens. That I'm ... you know,  
13 obviously, the Stretto, has procedures to try to avoid that  
14 and I appreciate reading the investigation summary. I don't  
15 doubt that. So, that's not where stuff happens. The  
16 question is, what's done as soon as you find out that's  
17 something's happened? And I think -- let me be crystal  
18 clear about this. I asked at the hearing on May 7th,  
19 whether the accountholders, the Celsius accountholders,  
20 whose information had been compromised in one fashion or  
21 another, had been contacted. And I was told that the answer  
22 to that was no, they had not been.

23 So, the report which you provided, the  
24 confidential memorandum dated May 13th, on page five, under  
25 Communications to Impacted Creditors, it starts out, the



1 first paragraph starts, quote, "On May 7, 2024, Stretto  
2 promptly began sending notifications to Celsius creditors  
3 whose information may have been accessed and/or  
4 exfiltrated," close quote. So, that's the day of the  
5 hearing. Do I presume that sometime after the hearing,  
6 which was at two o'clock in the afternoon, Stretto, I'd say,  
7 finally began notifying the accountholders?

8 MR. McNELIS: Yes, Your Honor. There was  
9 coordination that Stretto had --

10 THE COURT: You might have put it in the memo. It  
11 wasn't coincidental that on May 7th, Stretto began notifying  
12 the accountholders. To put it mildly, I blew my stack at  
13 the hearing when I found out that Stretto hadn't done what  
14 seems to be among the most important things it could  
15 possibly do. It learned ... it learned of the breach April  
16 18th, or 17th?

17 MR. McNELIS: April 17th, Your Honor.

18 THE COURT: April 17th. And the notion that there  
19 would be radio silence in terms of the accountholders whose  
20 information had been compromised, between April 17th and May  
21 7th is, frankly, mindboggling to me. I understand that  
22 Stretto jumped on this with an investigation, but I guess,  
23 in my view, I'd like to know, why should accountholders have  
24 to wait for an investigation to be complete, completed,  
25 before they're advised that there's a problem?

1 MR. McNELIS: Sure. So, as I think was laid out  
2 in the report, as soon as discovery of this incident  
3 happened, the incident response team at McDonald Hopkins and  
4 Stretto were working, literally, around the clock on this  
5 issue.

6 THE COURT: I'll accept that as being true. I  
7 have no reason to believe that isn't the case. I think ...  
8 I'm certainly glad to see that as soon as they received  
9 information from their own internal systems that there  
10 appeared to have been systems compromised, and discovered  
11 how that happened -- I appreciate that. I don't have a  
12 problem about that. It's the several weeks until ...

13 If I hadn't blown my stack at the hearing, it  
14 clearly was the precipitating factor, because -- you know,  
15 your client is shaking his head no, but you've acknowledged  
16 that there had not been communication with the  
17 accountholders as of the time of the hearing. The hearing  
18 was at two o'clock on May 7th, and your May 13th memo sort  
19 of casually says, "Oh, on May 7, 2024, Stretto promptly  
20 began sending notifications."

21 MR. McNELIS: Sure. I understand your point, Your  
22 Honor. But I can tell you that whether ... however that  
23 hearing that went on May 7th, those communications were  
24 going to go out.

25 THE COURT: You didn't tell me that.

1 MR. McNELIS: So, how the hearing went on the 7th,  
2 did not accelerate or change the timeline.

3 THE COURT: Why the wait until May 7th?

4 MR. McNELIS: Sure. So, the forensic  
5 investigation itself was not completed until May 6th. That  
6 is a very standard timeline for an investigation of this  
7 type. And as we're going through the investigation, the  
8 victim, you know, the company, Stretto, is learning  
9 information piecemeal and is working with the forensic  
10 investigators to determine whether there are anymore areas  
11 within their network, or within the forensic evidence, that  
12 they need to look at.

13 It was not until May 6th that we determined  
14 anyplace within the Stretto network that threat actor could  
15 have touched has been reviewed, and we've determined this is  
16 the full universe of information that could have been  
17 accessed. And the reason that we wait until that point is  
18 that there are risks for all parties involved, to both under  
19 notify a population, or over notify a population, in terms  
20 of telling too many people that their information has been  
21 impacted when, in truth, we don't know that it has been. Or  
22 in telling one group of creditors first, that your  
23 information may have been impacted, and then later telling  
24 another group, and later telling another group, is that we,  
25 as Stretto, firstly, to coordinate with Celsius, the debtor.

1 Stretto does not have the ability or the authority to  
2 unilaterally notify creditors.

3 THE COURT: You're going to (indiscernible) that  
4 it was because Kirkland said don't tell anybody. Is that  
5 why --?

6 MR. McNELIS: No, not at all. All I'm saying is,  
7 we were working, as Stretto, with Celsius, starting on April  
8 25th, having daily calls, to discuss the findings that were  
9 happening, saying we reviewed this system and found X, we  
10 reviewed this system and found Y. And --

11 THE COURT: How many accounts were, in one fashion  
12 or another, compromised?

13 MR. McNELIS: Just one.

14 THE COURT: How many Celsius accountholder  
15 (indiscernible)?

16 MR. McNELIS: No Celsius accounts were impacted.  
17 There was information that creditors --

18 THE COURT: PII of Celsius creditors?

19 MR. McNELIS: Thirty-three. So, there was --

20 THE COURT: And when did Stretto, or those  
21 conducting the investigation determine that the number was  
22 33?

23 MR. McNELIS: On May 6th. And so, there was, as I  
24 think you saw in the report, 104,000 creditors who had their  
25 name and certain contact information that was impacted by

1 the incident.

2 THE COURT: So, what you're telling me is 104,000  
3 had some information, some PII compromised, 33 more so than  
4 the rest?

5 MR. McNELIS: I would say PII is sort of a term of  
6 art in the cyber and privacy world, so --

7 THE COURT: It's defined in the Bankruptcy Code.

8 MR. McNELIS: So, PII, as I understand it, is not,  
9 is not necessarily just name and address; it would be  
10 something more sensitive like a Social Security number, a  
11 financial account number, something along those lines.

12 THE COURT: So, Section 101.41(A) -- 101 is the  
13 definitions, and 41(A): The term Personally Identifiable  
14 Information means, (A), if provided by an individual to the  
15 debtor, in connection with obtaining a product or service  
16 from the debtor, primarily for personal, family or household  
17 purposes. That's (i), the first name or initial and last  
18 name of such individual, whether given at birth or time of  
19 adoption, or resulting from lawful change of name; (ii), the  
20 geographical address or the physical place of residence of  
21 such individual; (iii) an electronic address, including an  
22 email address, of such an individual. So, how many Celsius  
23 accountholders had personally identified -- it goes on. Let  
24 me give the full picture: (iv) is a telephone number  
25 dedicated to contacting such individual; (v) Social Security

1 account number; (vi) the account number or the credit card  
2 issued to such individual. So, my question to you is, how  
3 many of the Celsius accountholders that had accounts with  
4 Stretto, had personally information, personally-identifiable  
5 information obtained, as that term is defined in the  
6 Bankruptcy Code?

7 MR. McNELIS: That would be approximately 104,000,  
8 Your Honor.

9 THE COURT: And have you notified 104,000 people  
10 that personally identifiable information, as defined in the  
11 Bankruptcy Code, was improper, improperly obtained? I'm not  
12 -- I don't want to -- I'm not faulting Stretto.

13 MR. McNELIS: Understood.

14 THE COURT: Okay, it's a separation. Accidents  
15 happen, things happen. But the Bankruptcy Code defines PII.  
16 You've acknowledged roughly 104,000 Celsius creditors had  
17 PII that was wrongfully obtained, surreptitiously obtained.  
18 And you're drawing a distinction between -- I would  
19 acknowledge, 33 more serious violations. But the Bankruptcy  
20 Code, Stretto's in the business of dealing with bankruptcy  
21 claims. The Bankruptcy Code has a much broader definition  
22 of PII than the 33 accounts. So, is it only 33 that were  
23 notified, or 104,000 notified?

24 MR. McNELIS: No, all 104,000 were notified.

25 THE COURT: Over what period?

1 MR. McNELIS: On May 7th, the 33 individuals who  
2 had their Social Security number or tax payer identification  
3 number in the, in the data, were notified electronically.  
4 And in that notification, they were also provided with 12  
5 months of a credit monitoring product.

6 THE COURT: I saw that, and I've seen that as sort  
7 of the ... what appears to be -- I don't want to validate it,  
8 but that appears to be sort of the standard that's being  
9 used for providing protection.

10 MR. McNELIS: Yes, exactly. It's not required by  
11 law, but it is standard to include it in those types of  
12 notifications, particularly when a Social Security number,  
13 or something like that, is included. So, because those 33  
14 had more sensitive information, Stretto and Celsius wanted  
15 to prioritize getting those out. They were done  
16 electronically on the 7th.

17 As just an update, Stretto has been tracking the  
18 receipt of those notifications. Out of the 33, there were  
19 two emails that bounced back as undeliverable. And  
20 yesterday, Stretto found the mailing address for those  
21 individuals and sent a similar letter in the mail. So,  
22 that's not in the report, but that's just an update.

23 Then, on ... as to the larger population that just  
24 had name and address and other contact information, there  
25 was a subset of those people that Stretto had emails for, or

1 email addresses for, and then another set where there was  
2 not an email but we had a mailing address. And so, emails  
3 to those, to that population started going out on May 8th,  
4 and I think they went out between May 8th and May 10th.

5 Again, Stretto is also tracking the receipt of  
6 those to try to determine, you know, the highest possible  
7 delivery to that population. Then, on May 10th is when the  
8 letters went out in the mail, to the, I'll call it the non-  
9 SSN population, on May 10th. And all of those letters have  
10 gone out in the mail at this point, and did as of Friday.

11 THE COURT: On page 3 of the report, it's labeled  
12 confidential memorandum, it's addressed to me. I guess  
13 you're one of the people who sent it; there are three names.  
14 They're all in your firm?

15 MR. McNELIS: Yes, Your Honor.

16 THE COURT: But on page three, the fourth bullet  
17 point on the page reads, quote, "There is evidence that the  
18 threat actor was able to access Stretto's Amazon Web  
19 Services, AWS, console, which hosts certain cloud-based  
20 applications. However, there is no evidence that the threat  
21 actor was able to access any data related to the Celsius  
22 bankruptcy matter stored in Stretto's AWS portal. The  
23 forensic evidence indicates that the threat actor had access  
24 to the console for approximately three minutes, and  
25 conducted initial reconnaissance activities. There is no



1 evidence of access, access to or exfiltration of data from  
2 the AWS console," close quote.

3 So, one question I have is, was data for any other  
4 debtor other than Celsius, accessed?

5 MR. McNELIS: As to that specific ... as to the AWS  
6 console?

7 THE COURT: Yes.

8 MR. McNELIS: Or overall?

9 THE COURT: Well, let's answer both.

10 MR. McNELIS: So, I'll say this. To that  
11 question, there's no evidence from the forensic  
12 investigation that any, any data stored within that AWS  
13 console was accessed at all. So, you know, regardless of  
14 what was in that console --

15 THE COURT: Celsius or any other ...

16 MR. McNELIS: Yes, or any other debtor, there was  
17 no information in that portion of the network that was  
18 accessed.

19 THE COURT: The next bullet point, on page three,  
20 the final one reads, quote, "The forensic evidence indicates  
21 that the threat actor was able to access the impacted  
22 employees' account in the CORE," -- that's in quotes, it  
23 says corporate restructuring software application --  
24 "(indiscernible) software program used by Stretto for  
25 certain claim management activities. During instances of

1 unauthorized access to this claim administration software,  
2 the threat actor accessed and exfiltrated certain data held  
3 by Stretto in connection with the Celsius bankruptcy matter.  
4 Stretto's (indiscernible) provided Stretto with a list of  
5 activities conducted by the threat actor, within the CORE  
6 application, for review by Stretto, in conjunction with  
7 counsel."

8 So, question one: Did the threat actor access and  
9 exfiltrate data held by Stretto in connection with any  
10 bankruptcy cases other than Celsius

11 MR. McNELIS: From the CORE software or ...?

12 THE COURT: Look, I'm reading, I read a quote from  
13 your report. It refers to CORE.

14 MR. McNELIS: Yes.

15 THE COURT: Okay. And it acknowledges --

16 MR. McNELIS: There were three other ... apologies.

17 THE COURT: Let me finish. I'm a little slow  
18 sometimes, but let me finish. "It acknowledges that the  
19 Threat Actor," -- and that's a capitalized term == "...  
20 accessed and exfiltrated ..." -- exfiltrated means they took  
21 it, right?

22 MR. McNELIS: Yes. Yes, Your Honor.

23 THE COURT: -- "... certain data held by Stretto in  
24 connection with the Celsius bankruptcy matter." And my  
25 question now is, did you find any indication that any

1 information in the CORE software application was accessed  
2 and exfiltrated in connection with any bankruptcy matters  
3 other than Celsius?

4 MR. McNELIS: Yes, there were three, Your Honor.

5 THE COURT: And what, if anything, has been -- are  
6 any of those cases pending in this Court?

7 MR. McNELIS: I believe one is. And we, we have  
8 notified -- on April 22nd, is when Stretto first notified  
9 any debtors who had a bankruptcy case that Stretto was  
10 working on. That was the first time that Celsius and the  
11 three other debtors were informed of the incident. So, yes,  
12 we --

13 THE COURT: I don't want to put the names of those  
14 on the record in this case. But have you conferred with the  
15 US Trustee's Office and advised them of each case in which  
16 any information in any Stretto system, whether it's CORE or  
17 another system, was improperly accessed and exfiltrated?

18 MR. McNELIS: Yes, Your Honor. So, last night, we  
19 -- or yesterday afternoon, we had a call, Stretto --

20 THE COURT: You waited until the night before this  
21 hearing?

22 MR. McNELIS: Stretto and the US Trustee had a  
23 call about this matter, in which it was -- the three other  
24 cases were also discussed. The US Trustee indicated that  
25 they, they would like to have the appropriate representative

1 from the Trustee in those other cases informed. Stretto has  
2 since reached back out to the three other parties in those  
3 cases to say we would recommend reaching out to the US  
4 Trustee. Let's coordinate that because, again, similar to  
5 this case, Stretto doesn't feel that they can unilaterally  
6 inform the US Trustee without first conferring with the  
7 actual party in the bankruptcy case. So, the plan is to do  
8 that along with each of the parties in the case.

9 THE COURT: Has Stretto notified -- and I don't  
10 want to put it on the record what cases those were; you've  
11 indicated that that's been disclosed to the US Trustee's  
12 Office, and you've also disclosed it to the counsel,  
13 debtors' counsel, in those case?

14 MR. McNELIS: Yes, Your Honor.

15 THE COURT: Okay. Has Stretto notified each and  
16 every accountholder who had PII, as defined in the  
17 Bankruptcy Code, and you notified them that their  
18 information was improperly accessed? Yes or no.

19 MR. McNELIS: No. As to the other --

20 THE COURT: And why is that?

21 MR. McNELIS: Sure. So, that --

22 THE COURT: If it's a case in this Court, as Chief  
23 Judge, I consider it my responsibility to make sure -- and I  
24 don't know whether your firm was involved or not. I mean,  
25 we've been through a go-round with all of the claims agents

1 in connection with the ex-claim matter, as to which I opened  
2 a miscellaneous proceeding; which was ultimately resolved  
3 satisfactorily. I don't like finding out that information  
4 in any case pending in this Court -- have you notified the  
5 judges who are providing those other two cases, that there  
6 had been improper access to the information?

7 MR. McNELIS: No. At this time we have not.

8 THE COURT: Why not? Come on.

9 MR. McNELIS: So, at the end of the forensic  
10 investigation, the forensic firm provided Stretto with the  
11 information that was accessed. Then there is a period where  
12 Stretto has to do an internal review of that data, to try to  
13 sort out which cases were impacted, and then which  
14 individuals within those cases were impacted.

15 THE COURT: I expect to receive a letter, by  
16 tomorrow at noon, with a copy to the US Trustee -- and you  
17 can copy debtors' counsel in those cases -- identifying the  
18 cases, and what information, what PII as defined in the  
19 Bankruptcy Code, was improperly accessed in each of those  
20 cases. I don't , what I don't like are these surprises.  
21 The letter, a copy of the letter should be addressed to me,  
22 but sent to the judges who are presiding over each of those  
23 cases. And also, copy our Chief Deputy Clerk, Mike Paek,  
24 sitting in the back of the room listening to this.

25 Okay. The last thing I want to find out is a bad

1 surprise, that PII, which is supposed to be protected, has  
2 been compromised. I don't blame Stretto for being  
3 compromised. But I don't like finding out that you didn't  
4 bother telling the judges. So, I'm ordering that by noon  
5 tomorrow, that letter go to the judges presiding in those  
6 matters; the US Trustee, to Mike Paek, the Chief Deputy  
7 Clerk.

8 MR. McNELIS: Understood, Your Honor. We will do  
9 that.

10 THE COURT: And has there been a complete forensic  
11 investigation in each of those cases to determine what  
12 information was accessed? You use the term exfiltrated. I  
13 assume that means it was downloaded by whoever the threat  
14 actor was.

15 MR. McNELIS: Yes. So, from a forensic  
16 standpoint, essentially, what the forensic firm can show is  
17 what systems and what information was touched. They don't  
18 know what's, what that information means. So, at the end of  
19 the investigation, the forensic firm sends that information  
20 to Stretto, at which point Stretto can say, okay, we know  
21 that these particular documents were in the places that were  
22 touched. Then we can go into those documents and figure out  
23 what cases were impacted and which individuals within those  
24 cases were impacted. And as to the three cases outside of  
25 this one, that process is ongoing but --

1 THE COURT: Three besides this one, so a total of  
2 four in this Court?

3 MR. McNELIS: A total of four, yes.

4 THE COURT: Who were the judges presiding in those  
5 matters?

6 MR. McNELIS: I don't ... I think Judge Wiles is one  
7 that's pending here, but I don't know about the other two  
8 cases, Your Honor.

9 THE COURT: You'll know that by tomorrow at noon.

10 MR. McNELIS: Of course, yes.

11 THE COURT: This is really, look, it's really  
12 troubling to me, it's really troubling to me.

13 MR. McNELIS: Yeah. And I do want to reiterate,  
14 we had been working on this. The priority has been, let's  
15 determine the full universe of information that was  
16 impacted, so that we can be right the first time we send out  
17 this, this notification.

18 THE COURT: You say, on page four of the report,  
19 it's under the heading Stretto's Internal Review of Impacted  
20 Data, a little further down the page there's bullet points,  
21 and the second bullet point: For over 99 percent of this  
22 population, the impacted information was limited to contact  
23 information such as name, mailing address, email address,  
24 and/or phone number. That's a big deal to me, okay. You  
25 suggest that that's sort of unimportant information. That's

1 all really important information.

2 You know, just taking the Celsius case, there have  
3 been multiple instances of phishing attempts directed at  
4 creditors, obtaining ... when ... the start of this case, there  
5 as a sealing motion, the debtor made a sealing motion; which  
6 I granted in part and denied in part. The part I granted  
7 was for addresses, email addresses, phone numbers. Are you  
8 aware of this?

9 MR. McNELIS: Yes, Your Honor.

10 THE COURT: Okay. And yet, you make it sound in  
11 that bullet point that's not a big deal, for 99 percent of  
12 the people the only thing that was impacted were names,  
13 mailing addresses, email addresses, and/or phone numbers.  
14 That's a big deal to me. That is something that I ordered  
15 not be disclosed.

16 MR. McNELIS: Understood, yes. And it was not  
17 meant to minimize the first group. It's really just  
18 differentiating what, you know, what, at least from my firm,  
19 would categorize as more sensitive versus less sensitive  
20 information. And I can say that it is rare to get --

21 THE COURT: What I've seen in this case already,  
22 when people improperly get hold of people's email addresses,  
23 and home addresses -- there have been threats against  
24 people, there have been attempts to, you know, gain access  
25 to their accounts and distributions and things like that.



1 So, I consider identifying information about a addresses,  
2 phone numbers and email addresses very serious. It may be  
3 hat Social Security numbers are an order of magnitude more  
4 than that. But I consider the kinds of personally  
5 identifiable information that we're saying, oh, only 99  
6 percent of the accounts, really, all we're talking about is  
7 things like names, addresses, phone numbers, email  
8 addresses.

9 MR. McNELIS: Right. And I think another point of  
10 why making that distinction was relevant here, is because  
11 one of the biggest concerns was, did the incident impact  
12 financial account information of creditors, or information  
13 like claim codes, which could have allowed a threat actor  
14 to, you know, either commit some kind of financial fraud or  
15 make claims on behalf of creditors. That was really the  
16 main distinction.

17 THE COURT: You don't know whether the threat  
18 actor who gained Social Security numbers, for example, has  
19 improperly gained access to a Celsius creditor's checking  
20 account in a financial institution.

21 MR. McNELIS: It's possible that in some other  
22 attack, they have. But we can say for certain that in this  
23 case, it did not happen, at least based on the forensic  
24 evidence. And one of the reasons is, the way that Celsius  
25 kept this information was that ... so, the information in the

1 CORE system, that was accessed, that mostly came from claim  
2 forms that were submitted by creditors. That was in one  
3 system called CORE. There was a separate system that was  
4 walled off from this account -- he did not have access to it  
5 -- that had the claim codes or wire information, depending  
6 on how the creditor was going to access their thoughts in  
7 this case. So, we know from the forensic investigation that  
8 there is no evidence that that system that had the claim  
9 codes and wire information, that was not touched. And based  
10 on Stretto's internal review, this account did not even have  
11 access to that system. So, I think that was one of the  
12 reasons why that distinction was made, because it was  
13 critical, you know, from the very beginning; certainly from  
14 the Celsius side, as well as Stretto, is we need to make  
15 sure that claim codes and wire information is not impacted  
16 here. And that's why that is highlighted, Your Honor.

17 THE COURT: Does Stretto have a written policy  
18 with respect to disclosure of improper access to PII  
19 disclosure to accountholders, of PII? Is there a written  
20 policy?

21 MR. McNELIS: About --?

22 THE COURT: Stretto's steps to disclose to  
23 accountholders that their PII has been accessed, improperly  
24 accessed?

25 MR. McNELIS: I don't know if there's a written

1 policy, Your Honor, but I know that as soon as this incident  
2 happened, there was an incident response policy that was  
3 initiated.

4 THE COURT: I understand that, and I appreciate  
5 that, except they jumped on it internally, except the part  
6 about notifying the people whose accounts were affected by  
7 it. And my question is -- because I think this is a broader  
8 question, not only for Stretto but for other claims agents  
9 as well -- whether they have procedures in place for, one,  
10 identifying improper (indiscernible), or did, promptly  
11 didn't do; investigating it, which they did, how they went  
12 about it; notifying affected individuals or business  
13 entities that their account information has been improperly  
14 accessed? And under what circumstances will then --  
15 Stretto, does it have a policy with respect to what's  
16 required before it will provide, this year, of the program  
17 that it has in effect? That seems to be pretty standard.

18 MR. McNELIS: Right. I don't know the answer to  
19 that, Your Honor. I know that there is, that there are some  
20 agreements between Stretto and Celsius, where there are  
21 specific steps that Stretto has to take to notify Celsius of  
22 an incident like this, and that was done in this case. And  
23 I think that's, that's because, I think as I noted, I mean  
24 Stretto is really working as -- not as a party in this case,  
25 so it can't unilaterally reach out to creditors. So, the

1 plan --

2 THE COURT: You've got to be approved by this  
3 Court before you can even be hired as a (indiscernible).

4 MR. McNELIS: Of course. Yes. So, the plan, in  
5 any of these cases, would be we, once we find out that an  
6 incident happens, we initiate our response. If it, as soon  
7 as it's determined that there's some bankruptcy information,  
8 we have a duty to reach out to that, that debtor, so that we  
9 can figure out what was impacted, how we respond --

10 THE COURT: What happens if the Debtor says, "Oh,  
11 don't worry about it," what do you do then? Do yo have an  
12 obligation to the Court? I'm concerned about, you know,  
13 maybe you don't ... you can't reach the appropriate contact  
14 person at the debtor's law firm for a week because he or she  
15 is away on vacation? Or ... I guess what I'm asking now, and  
16 I don't know whether Mr. Masumoto or Mr. Bruh can answer  
17 this, as to whether the US Trustee, in vetting claims  
18 agents, has looked to determine whether they have  
19 appropriate policies and procedures in place to deal with  
20 circumstances like occurred here. I would just -- I mean,  
21 I'm not determining anything from the Court's standpoint, at  
22 this point, but I'm certainly concerned, and might well ask  
23 in the context of whether or not to approve the retention of  
24 Stretto or another claims agent, whether they have policies  
25 and procedures in place, in the event of improper access to

1 information; what are the steps that are taken? When is the  
2 Court notified? When is the US Trustee notified? That  
3 seems important to me. I'm not adopting the policy but, you  
4 know ...

5 MR. McNELIS: I think one other point I would note  
6 --

7 THE COURT: I don't want to do things, just, you  
8 know, kneejerk reaction. But these are all things that come  
9 to mind about --

10 MR. McNELIS: Yeah, I do know that Stretto does  
11 have a, they have policies for compliance with the CCPA and  
12 GDPR. And on their website those policies are published,  
13 that give claimants, or you know, whoever is on that site,  
14 at least notice of their rights under those statutes.

15 THE COURT: Does it say how quickly those  
16 policies, any of those policies, how quickly Stretto will  
17 notify them that your PII, as defined in the Bankruptcy  
18 Code, is improperly accessed.

19 MR. McNELIS: I don't know the answer to that. I  
20 can tell you that those laws would require that, and Stretto  
21 would certainly comply with that.

22 THE COURT: Well, those laws are in the EU and I'm  
23 sitting here in New York. ...

24 MR. McNELIS: Sure. Yeah, they just tend to be  
25 the most stringent. The California law is one of the most

1 stringent in the country, and GDPR is much more stringent  
2 than a lot of the state laws. So, yes, so I know there are  
3 published policies from Stretto on those two, those two  
4 items. But to your specific question, I don't know the  
5 answer to that.

6 THE COURT: Within a week, could you notify me  
7 what, and provide me with copies of whatever policies  
8 Stretto might have?

9 MR. McNELIS: Yes, Your Honor.

10 THE COURT: And again, once they -- give it to me,  
11 but give it to the US Trustee as well, and the US Trustee --  
12 I don't have to deal with this, okay. I shouldn't have to  
13 deal with this. Stretto doesn't want to have to --

14 MR. McNELIS: Right.

15 THE COURT: Look, they want to protect the data.  
16 Accidents happen, things happen.

17 MR. McNELIS: Right.

18 THE COURT: And what happens then? What do they  
19 do then? Do they notify the Court? Obviously, they didn't  
20 notify two judges in this Court that PII In their cases was  
21 compromised.

22 MR. McNELIS: Right. And I know, just from  
23 dealing with this matter, these are issues that Stretto  
24 cares about and is thinking about. And they know that  
25 they're in a unique position working with the Court and

1 working with all of this data, and it is a top priority for  
2 the company.

3 THE COURT: So, on page two of this confidential  
4 memorandum -- did you provide a copy of this to the US  
5 Trustee?

6 MR. McNELIS: Excuse me?

7 THE COURT: Yeah, he did, okay. I asked whether  
8 you provided a copy to the US Trustee. Mr. Bruh has  
9 indicated yes.

10 MR. McNELIS: Yes.

11 THE COURT: So, on page two, the first paragraph  
12 says, quote, "On April 17, 2024, Stretto Information  
13 Technologies staff were alerted to suspicious activity  
14 occurring in one employee account. Stretto immediately  
15 initiated an internal investigation ..., " and it goes on from  
16 there. When did Stretto learn of improper access to  
17 information in two other cases in this Court? Or three  
18 other cases in this Court?

19 MR. McNELIS: That was either April 21st or April  
20 22nd, was when it was confirmed that that there was  
21 information related to bankruptcy cases, that could have  
22 been accessed. And that April 22nd was the date that all of  
23 those debtors were notified.

24 THE COURT: And did Stretto, has Stretto learned  
25 that there was improper access to information in any

1 bankruptcy cases in any other courts?

2 MR. McNELIS: In any other courts?

3 THE COURT: Courts.

4 MR. McNELIS: Yes. I, candidly, I don't know. I  
5 know two, this case and one other, are in the Southern  
6 District of New York. I don't know what court the other two  
7 are in, but I know they're in courts other than this one.

8 THE COURT: Mr. Bruh?

9 MR. BRUH: Your Honor, Mark Bruh, United States  
10 Trustee. I know the case names and districts.

11 THE COURT: We don't need to spread the names on  
12 here. Have the judges been in those cases been notified?

13 MR. BRUH: Not to the best of my knowledge.  
14 (indiscernible) has been notified as well.

15 THE COURT: I would say it's a broader problem  
16 than the Southern District of New York. I don't ... you know  
17 ... I hope Mr. Bruh or Mr. Masumoto, if the cases have been  
18 identified to you, you will notify the US Trustee Offices in  
19 those, that deal with those courts. Are they in the Second  
20 Circuit or ...?

21 MR. BRUH: Your Honor, I am the attorney handling  
22 the other matter.

23 THE COURT: I want to be sure that there are  
24 policies and procedures in place, including notifying the  
25 judge who's got the case.



1 MR. McNELIS: Yes, understood. And obviously, a  
2 key focus of this investigation was let's make sure we know  
3 what information was impacted here that relates to a  
4 bankruptcy case. As soon as that was determined, even  
5 beyond knowing for sure the universe, April 22nd, you know,  
6 three days after the incident, or four days after the  
7 incident, all the debtors at least knew that there was an  
8 incident implicating that information.

9 THE COURT: The debtors but not the Courts?

10 MR. McNELIS: Right. An it just takes time to --

11 THE COURT: It doesn't take very long, pick up the  
12 phone, send an email. It's a nanosecond.

13 MR. McNELIS: Sure. What I meant was, it takes  
14 tie to determine the universe --

15 THE COURT: You need the (indiscernible). Stretto  
16 needs my signature on an order authorizing the retention.  
17 If Stretto thinks it doesn't have to tell a judge in his  
18 Court who authorized their retention, debtors' counsel may  
19 say, "Oh, this may go away." I don't care whether debtor's,  
20 what debtor -- I think, you know, Kirkland certainly  
21 notified the Court promptly, it certainly appears. I don't  
22 want to have to rely on debtors' counsel, creditors  
23 committee counsel, or any other counsel. Each claims agent  
24 has to have its retention approved by a judge. And there's  
25 an obligation to the Court ... the last ... almost too hard to

1 believe that a lawyer would say, "No, don't, let's just see  
2 how this works out. Nobody reports anything, don't go  
3 ahead." I hope no lawyer will ever do that; that didn't  
4 happen here. But if it turned out in another case that  
5 months had gone by because the debtors' lawyer wouldn't  
6 permit the claims agent to notify the Court, the claims  
7 agent isn't going to work in this Court again, I'll tell you  
8 that, is not going to work in this Court again if it ever  
9 turned out that it learned of improper access and didn't  
10 timely notify the Court.

11 MR. McNELIS: Understood. And given that  
12 distributions were ongoing in this case, that was a key  
13 consideration in this case. And that's why we --

14 THE COURT: You know, on May 7th, distributions  
15 hadn't resumed. Have they resumed? The distributions in  
16 Celsius? I get, every day, I get letters and emails from  
17 creditors complaining they hadn't received their  
18 distributions. You know, I ... today, actually, May 12th, it  
19 was filed on the documents, ECF 4886, request for assistance  
20 regarding bitcoin retrieval. "Dear Judge Glenn, I hope this  
21 finds you well ..." It has the person's name -- it's on the  
22 docket, it's public. "Recently, I received my bitcoin code  
23 from Celsius, but I have encountered difficulties in  
24 claiming it. It has come to my attention that PayPal has  
25 removed the option to claim such codes, adding to the

1 complexity of the situation. Despite my repeated attempts  
2 to contact Stretto, I have yet to receive any response or  
3 assistance." It goes on from there. Okay, this is ECF  
4 4886.

5 This does ... you know, I understand there are a  
6 lot tickets and ... but every day I get communications from  
7 creditors who want to vacate the confirmation order, because  
8 you know, a confirmation order entered last year, a plan  
9 that's gone effective in January, people are having a hard  
10 time getting. I know there's a lot of creditors but ...

11 MR. KWASTENIET: Your Honor, Ross Kwasteniet from  
12 Kirkland & Ellis, on behalf of the Celsius estate, for the  
13 record. Your Honor, it was our decision, Celsius's  
14 decision, to pause withdrawals, and we did it. We had to  
15 make sure that crypto was not going to be stolen and that  
16 wires weren't going to be misrouted and ...

17 THE COURT: I'm not faulting you for stopping  
18 distributions.

19 MR. KWASTENIET: Understood, Your Honor. I wanted  
20 to give the Court and update. And we understand, you know,  
21 creditors are frustrated. They were frustrated before the  
22 pause because there's technical difficulties in, you know,  
23 entering the codes correctly, whatever, all things that  
24 we've been working through and, frankly, making a lot of  
25 progress. Most people have been able to claim

1 distributions. For the last few weeks, though,  
2 distributions have been on pause. Fortunately, I haven't  
3 had a lot of personal experience with data breaches, but I'm  
4 learning. Like these, you know, investigations are very  
5 time consuming, painstaking, complicated.

6 The Celsius estate maintains a full suite of  
7 security personnel, and will at all times while we're  
8 holding customer assets. We've been working very closely  
9 with the Stretto team. It's been a very collaborative, you  
10 know, process. I believe that we are at a point now where  
11 in the next, you know, hopefully by tomorrow, we're able to  
12 open up distributions. We've got a few last datapoints that  
13 we're asking for final confirmation on. The Stretto team  
14 has answered 97 out of our 100 questions. You know,  
15 directionally, there's a few last things that we're waiting  
16 for final confirmation on, and then we're going to be poised  
17 to reopen the distribution process. So ...

18 THE COURT: And when is that?

19 MR. KWASTENIET: What's that?

20 THE COURT: When?

21 MR. KWASTENIET: I think, I expect it will happen  
22 certainly by the end of this week. It could happen as early  
23 as like this evening or tomorrow. We're very close, Your  
24 Honor. It may have, there may be emails that came across  
25 confirming we're good during this hearing, that I just

1 haven't seen. But we're very, very close.

2 THE COURT: Have you told creditors why  
3 distributions were paused?

4 MR. KWASTENIET: Yes, Your Honor. In the notice  
5 that we filed on, I believe it was May 7 --

6 MR. McNELIS: The initial notice was filed on  
7 April 26th --

8 MR. KWASTENIET: We filed a notice on April 26th,  
9 Your Honor, informing everybody that there was a data  
10 security incident, we were looking into it, and you know,  
11 that we had paused distributions and would provide a further  
12 update as soon as possible. So ...

13 THE COURT: Have you provided an update yet?

14 MR. KWASTENIET: Other than the update provided to  
15 the Court last week, we haven't -- well, customers were  
16 provided individualized notices by Stretto, so everybody  
17 affected, but no, we would ... once we resume ...

18 THE COURT: But everybody's distributions were --

19 MR. KWASTENIET: Understood. So, once we  
20 recommence distributions, we plan to file a notice that  
21 distributions are available again. And then we're also  
22 working with Stretto on email notifications to people who  
23 have gotten claim codes recently had to let them know  
24 specifically that they can try again, that we've reopened  
25 things.

1 THE COURT: Would somebody please deal with ECF  
2 4886 -- I don't want to put his name on the record -- and,  
3 you know ... he ends by saying, "I am truly grateful for any  
4 assistance you can offer facilitating the resolution of this  
5 issue." It's in your court now.

6 MR. KWASTENIET: Understood Your Honor. And there  
7 are others like that creditor and we will handle every one  
8 of those.

9 THE COURT: Mr. Masomoto or Mr. Bruh?

10 MR. BRUH: Your Honor, Mark Bruh for the United  
11 States Trustee. I'll be brief. You've covered a lot of  
12 issues here.

13 THE COURT: What have I missed? Because I'm sure  
14 I've missed something.

15 MR. BRUH: We think the report should be public.  
16 I don't know why it was submitted as a confidential letter  
17 to Your Honor. We think it should be filed on the docket  
18 for everyone to see. I don't think there's anything there  
19 that would be giving away the house's information, so to  
20 speak, on Stretto's side. That's the first point.

21 The second point, Your Honor hesitated for me to  
22 name the cases. If you want to know them, I'll be happy to  
23 tell them to you, otherwise --

24 THE COURT: Not on the record.

25 MR. BRUH: Very well, Your Honor. I will note,

1 for the one in this Court, I am the attorney, I have been in  
2 contact with the plan administrator in the other case, and I  
3 spoke to him as recently as earlier today, regarding what's  
4 taken place there. And they hope Stretto will have a dialog  
5 with them to resolve any issues in that case. And I think  
6 they heard Your Honor's words of wisdom today to get that  
7 moving. So, I appreciate that.

8 One of the concerns we have, Your Honor, is that  
9 there's been ... what we see is a copying of the Stretto logo.  
10 Now, that doesn't make this limited to this case or to  
11 crypto cases. But it's these bad actors could be every case  
12 that Stretto is involved in. So, we're concerned how  
13 widespread this problem is or can become. And we wanted to  
14 put that on the record and try to find a way to resolve  
15 this, because we just don't know. And there are other cases  
16 that have -- you know, it's not just money that's involved.  
17 There's person -- the dioceses cases, for example, and I  
18 know Stretto is involved in the diocese case; maybe not the  
19 one before Your Honor, I'm not sure. But we see that that  
20 could be an issue.

21 Also, Your Honor, when we spoke to Stretto's  
22 counsel yesterday, and we were talking about the 33 people  
23 who had their Social Security numbers and they said it was  
24 because they sent it to them, and then they had the  
25 information, whereas the hundreds of thousands didn't send

1       them the Social --

2               THE COURT:   104,000.

3               MR. BRUH:   Well, it could be even more creditors  
4       that just weren't compromised by the hack.   And then our  
5       concern was, albeit the information is not made public, what  
6       does Stretto do?   And this is along Your Honor's thought  
7       process -- to scrub that information in case of a future  
8       hack.   That information should never be there.   If Stretto  
9       steps into the role as a clerk of the court, the clerk  
10      scrubs that information when it's submitted to the Court.  
11      We think, if they're looking at their policies, or Your  
12      Honor is, or we are, that that should be something going  
13      forward, perhaps, and further ordered.   But that information  
14      should never be around for anyone ever to have that  
15      information.

16              I would just say, Your Honor, we did speak to  
17      Stretto, we did speak to Kirkland yesterday.   We hope to  
18      continue to have an open dialog and we would, you know,  
19      happy to answer any questions Your Honor has at this time.

20              THE COURT:   When the ex-claim matter arose, I  
21      really appreciated your office stepping up to that.   It's  
22      not my goal to have the Court have an adversary relationship  
23      with every claim agent, or even a subset of claim agents.   I  
24      do feel a responsibility to make sure that, to the fullest  
25      extent possible, appropriate procedures are in place,



1 hopefully to avoid things that happen; they haven't, okay.  
2 But what do you do when it does? And I've already  
3 expressed, I had ... sort of blew my stack at the last hearing  
4 when I found out they haven't told any of the  
5 accountholders. And they're saying, "Oh, but it was only  
6 their names, addresses and email addresses. It wasn't their  
7 Social Security number." Well, you know, names, addresses,  
8 home addresses, email addresses, they're all PII under the  
9 Bankruptcy Code; not as bad as the Social Security numbers.

10 I would ... I think you and your colleagues ought to  
11 have a discussion about whether it's time to review not only  
12 Stretto, but each of the claims agents who gets approved in  
13 this district, to make sure that if something untoward  
14 happens, A, they have procedures to try -- it looks like  
15 Stretto -- I'm accepting for now, that they identified the  
16 problem right away. It's telling the Court, telling, don't  
17 rely solely ... their obligation is more than just a debtor's  
18 counsel. They're standing in place of the Clerk's Office in  
19 this function. They're not, you know ... fine, you can ... you  
20 know, maybe Kirkland isn't going to want to hire you in the  
21 next case if you tip them off. But you tick this Court off,  
22 and you're not going to work in this Court.

23 CLERK: Sorry, Judge?

24 THE COURT: Yes.

25 CLERK: We have parties with raised hands. I

1 don't know if you want to allow them to ...

2 THE COURT: Sure. It's, I always am happy to hear  
3 from -- I can't see them on the screen so you'll have to  
4 identify the names.

5 CLERK: Sure, Janell Eckhardt, please unmute.

6 MS. ECKHARDT: Thank you, Your Honor. My name is  
7 Janell Eckhardt, and I'm a Celsius Earn Creditor and  
8 appreciate that you're acknowledging the seriousness of this  
9 matter. I wondered if perhaps you had considered how, back  
10 in October of '22, 2022, that we had engaged with a consumer  
11 privacy ombudsman when we were releasing the schedules.  
12 That was something that you and the US Trustee had set up.  
13 And that was something that she had set up a report that was  
14 something that maybe could be considered a resource. Seems  
15 like Stretto is kind of minimizing the situation. And you  
16 can connect the addresses to, you know, what was in the  
17 schedules we're doing, while it addresses transaction  
18 histories, crypto holdings, and recent transactions that  
19 were done in those schedules. And people can look at it,  
20 it's a very large amount, you know, there's issues that  
21 happen to people that had crypto holdings, that had criminal  
22 things that happened to them. So, it's a very serious  
23 matter. So, I didn't know if you considered that. Thank  
24 you.

25 THE COURT: Thank you very much, Ms. Eckhardt.

1 Anybody else? Diana, anybody else have their hand raised?

2 CLERK: Mr. (indiscernible) had his hand up but I  
3 think he put it down.

4 THE COURT: Okay, anybody else? Any other?

5 CLERK: That's all, Judge.

6 THE COURT: Okay, all right. Any of the counsel  
7 in Court want to be heard further? Mr. Bruh?

8 MR. BRUH: Your Honor, Mark Bruh, United States  
9 Trustee. Just briefly on that comment, we had discussed it  
10 with counsel, the privacy ombudsman. She was discharged  
11 when she filed her final report in the case, so we didn't  
12 think, at this time, to bring her back in, in this role.  
13 But ...

14 THE COURT: Thank you very much, Mr. Bruh. All  
15 right. We're going to adjourn but the Chief Deputy Clerk is  
16 sitting in the back of the room, and he may want to talk to  
17 you off the record and see whether there's anything else. I  
18 take this very seriously, I've said that multiple times.  
19 But ... all right, we're adj

20

21 (Whereupon these proceedings were concluded at  
22 4:01 PM)

23

24

25

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing  
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: May 16, 2024